**S.B. CIVIL MISC. APPEAL NO. 633/2000**
**S.B. CIVIL MISC. APPEAL NO. 447/2000**

Date : 08.03.2006

**HON'BLE MR. BHAGWATI PRASAD, J.**

Mr. Mahesh Thanvi for the Corporation.
Mr. S.K. Sankhla for the claimants.

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Heard.

These are the appeals filed by RSRTC and the claimants against the award as passed by the Motor Accident Claims Tribunal.

Before the Tribunal, the claimants produced the witnesses to prove the fact of accident wherein, it was alleged that the bus of the appellant was being driven rashly and negligently and has caused death of the deceased. The testimony of AW/3 Arjun Ram has not in any manner been rebutted. No evidence was produced on behalf of the Corporation. Even the driver who was driving the vehicle was not produced by RSRTC. Therefore, there remains un-rebutted evidence of the claimants and in that view of the matter, if there was no rebuttal, then the Tribunal in all probability was required to accept the evidence on oath and if the claim has been decreed, it cannot be said that any illegality has been committed in accepting the version of the claimants. Therefore, to that extent, there is no force in the appeal.

As regards the quantum of compensation, no serious arguments were advanced on behalf of the Corporation. However, the

claimants in the cross appeal have urged that the Tribunal was wrong in reducing the quantum of pension. In law, the quantum of pension would not be reduced because it was admissible to every Government servant after retirement. That would have been continued to be paid and dependency cannot be reduced to that extent. Learned counsel for the claimants places reliance on a decision United India Insurance Co. Ltd. Vs. Patricia Jean Mahajan & Anr. reported in 2002 ACJ 1441 (SC) and Helen C. Rebello Vs. Maharashtra State Road Transport Corporation reported in 1999 ACJ 10 (SC). Thus, to that extent, the finding of the tribunal that dependency is reduced by amount of pension is held erroneous and the dependency is enhanced to the extent of reduction of pension amount. The Tribunal will make this exercise and after deducting one third amount as personal expenses, will pass a fresh award with the above modifications.

The appeals are disposed of.

**(BHAGWATI PRASAD), J.**

bjsh